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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/287,707 04/07/99 MIZUTANI

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PM92/1206

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EXAMINER

EDWARD W GREASON
KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

SECOND FILE	
ART UNIT	PAPER NUMBER

3613
DATE MAILED:

6

12/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/287,707

Applicant(s)

MIZUTANI ET AL.

Examiner

Robert A Siconolfi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 4-20 and 22-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 21 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

1. Election filed on 10/13/00 has been received.

Election/Restrictions

2. Applicant's election with traverse of Species C in Paper No. 5 is acknowledged. The traversal is on the ground(s) that The search would not be burdensome. This is not found persuasive because the separate sepecies have distinct differences. There are two modes of activation (lever and pressure cylinder), numerous failsafe methods (check valve 230, switch valve 210) and numerous different master cylinder structures.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 4-20, and 22-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

Applicant submitted claims 1-3 and 35 which are generic read upon the elected species. The examiner agrees with this statement. The applicant also submits that claim 16 reads upon the elected species. The examiner disagrees. Instant claim 16 requires an emergency communicating device between the assisting pressure chamber and the pressure chamber. Such a device does not appear in the elected species. The examiner submits that instant claim 21 reads upon the species and in the interests of furthering prosecution has examined this claim. The applicant has also requested the combining of species B and C. As it currently stands instant claim 21 reads upon both species B

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and C, however, such an action implies that there is no patentable distinction between having a separate housing with lever actuation and have an assisting cylinder setup.

Therefore, either setup would be obvious in view of the other.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3,21, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorenson (U.S. Patent no. 5,549,361).

Brake operating member 72, master cylinder not shown but attached to the output of the boost device (cylinder housing , pressuring piston, pressure chamber), assisting device 24 (master cylinder characteristic control device) [assisting cylinder , assisting piston, high pressure source 18, reservoir 22, solenoid pressure control valve device 50,32], emergency reservoir communication device102

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ganzel, Schonlau, Willman, and Kellner et al all teach boost devices.

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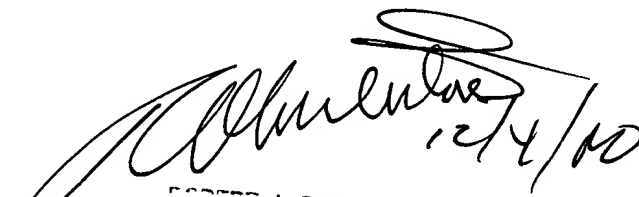
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A Siconolfi whose telephone number is (703) 305-0580. The examiner can normally be reached on M-F 8 am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Oberleitner can be reached on (703) 308-2569. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Robert A Siconolfi
Examiner
Art Unit 3613

RS
December 4, 2000


ROBERT J. OBERLEITNER
SENIOR PATENT EXAMINER
TECHNOLOGY CENTER 3613